

**REPORT OF THE AUDIT OF THE
FORMER FLEMING COUNTY
CLERK**

**For The Year Ended
December 31, 2006**



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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FORMER FLEMING COUNTY CLERK

**For The Year Ended
December 31, 2006**

The Auditor of Public Accounts has completed the former Fleming County Clerk's audit for the year ended December 31, 2006. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$28,305 from the prior year, resulting in excess fees of \$59,647 as of December 31, 2006. Revenues decreased by \$53,987 from the prior year and expenditures decreased by \$25,682.

Report Comments:

- Individuals Performing Duties Prescribed To The Former County Clerk's Office Should Be Considered Employees Instead Of Independent Contractors
- The Former County Clerk's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements

Deposits:

The former County Clerk's deposits were insured and collateralized by bank securities.

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C R I T L U A L L E N
A U D I T O R O F P U B L I C A C C O U N T S

The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Marilyn Spencer, Former Fleming County Clerk
The Honorable Jarrod Ryan Fritz, Fleming County Clerk
Members of the Fleming County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the former County Clerk of Fleming County, Kentucky, for the year ended December 31, 2006. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the former County Clerk for the year ended December 31, 2006, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated June 14, 2007 on our consideration of the former County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Marilyn Spencer, Former Fleming County Clerk
The Honorable Jarrod Ryan Fritz, Fleming County Clerk
Members of the Fleming County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- Individuals Performing Duties Prescribed To The Former County Clerk's Office Should Be Considered Employees Instead Of Independent Contractors
- The Former County Clerk's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements

This report is intended solely for the information and use of the former County Clerk and Fiscal Court of Fleming County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

June 14, 2007

FLEMING COUNTY
 MARILYN SPENCER, FORMER COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2006

Revenues

State Fees For Services		\$	6,344
Fiscal Court			4,835
Licenses and Taxes:			
Motor Vehicle-			
Licenses and Transfers	\$	377,283	
Usage Tax		1,179,017	
Tangible Personal Property Tax		1,072,125	
Other-			
Fish and Game Licenses		7,709	
Marriage Licenses		3,726	
Deed Transfer Tax		35,721	
Delinquent Tax		41,649	2,717,230
Fees Collected for Services:			
Recordings-			
Deeds, Easements, and Contracts		11,808	
Real Estate Mortgages		26,522	
Chattel Mortgages and Financing Statements		46,818	
Powers of Attorney		767	
All Other Recordings		15,999	
Charges for Other Services-			
Copywork		7,977	109,891
Other:			
Refunds		7,434	
Miscellaneous		3,455	10,889
Interest Earned			621
Total Revenues			2,849,810

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
 MARILYN SPENCER, FORMER COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2006
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$	283,444	
Usage Tax		1,142,125	
Tangible Personal Property Tax		365,271	
Licenses, Taxes, and Fees-			
Fish and Game Licenses		7,710	
Marriage Licenses		1,080	
Delinquent Tax		4,694	
Legal Process Tax		11,437	
Affordable Housing Trust		6,252	\$ 1,822,013

Payments to Fiscal Court:

Tangible Personal Property Tax		120,025	
Delinquent Tax		8,336	
Deed Transfer Tax		33,934	162,295

Payments to Other Districts:

Tangible Personal Property Tax		543,120	
Delinquent Tax		18,172	561,292

Payments to Sheriff

1,554

Payments to County Attorney

4,992

Operating Expenditures and Capital Outlay:

Personnel Services-			
Deputies' Salaries		105,391	
Contracted Services-			
Labor		2,613	
Materials and Supplies-			
Office Supplies		5,852	

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
 MARILYN SPENCER, FORMER COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2006
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Other Charges-

Conventions and Travel	\$	3,757	
Dues		450	
Postage		5,282	
Miscellaneous		5,520	
Advertising		3,151	
Refunds		10,009	
New and Repairs		17,467	
Property Tax Bill Preparation		2,282	\$ 161,774

Total Expenditures			\$ 2,713,920
Net Revenues			135,890
Less: Statutory Maximum			69,341
Excess Fees			66,549
Less: Expense Allowance		3,600	
Training Incentive Benefit		3,302	6,902
Excess Fees Due County for 2006			59,647
Payment to Fiscal Court - January 2, 2007			50,000
Balance Due Fiscal Court*			\$ 9,647

*Note - The former County Clerk presented a check to the County Treasurer for the balance due Fiscal Court on May 11, 2007.

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2006

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2006 services
- Reimbursements for 2006 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2006

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

FLEMING COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2006
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 10.98 percent for the first six months and 13.19 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The former County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the former County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The former County Clerk did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 41.240(4). As of December 31, 2006, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

FLEMING COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2006
(Continued)

Note 4. Leases

- A. The County Clerk's office had two lease agreements with Software Management for the CCLIX software service and hardware maintenance. The agreements required annual payments of \$2,700 and \$3,380 for 5 years and were completed on September 18, 2005. The former County Clerk has since renewed the agreement on a yearly basis for the same payment amounts.
- B. The County Clerk's office had two lease agreements with Xerox for copiers. The agreements required monthly payments of \$301 and \$287 for 60 months to be completed in June 2009. The County Clerk was in compliance with the terms of the agreements as of December 31, 2006.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Marilyn Spencer, Former Fleming County Clerk
The Honorable Jarrod Ryan Fritz, Fleming County Clerk
Members of the Fleming County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the former Fleming County Clerk for the year ended December 31, 2006, and have issued our report thereon dated June 14, 2007. The former County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Fleming County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the former Fleming County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the former Fleming County Clerk's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Internal Control Over Financial Reporting (Continued)

We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting.

- The Former County Clerk's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we do not believe that the significant deficiency described above is a material weakness.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the former Fleming County Clerk's financial statement for the year ended December 31, 2006, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comments and recommendations.

- Individuals Performing Duties Prescribed To The Former County Clerk's Office Should Be Considered Employees Instead Of Independent Contractors

This report is intended solely for the information and use of management, the Fleming County Fiscal Court, and the Kentucky Governor's Office for Local Development and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

June 14, 2007

COMMENTS AND RECOMMENDATIONS

FLEMING COUNTY
MARILYN SPENCER, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2006

STATE LAWS AND REGULATIONS:

Individuals Performing Duties Prescribed To The County Clerk's Office Should Be Considered Employees Instead Of Independent Contractors

During our testing of expenditures and review of the disbursements ledger, we noted that three individuals received compensation totaling \$2,613 as independent contractors. The individuals were contracted to perform duties relating to the general operation of the County Clerk's office. These people maintained timesheets and were paid an hourly wage for work performed. Since, the duties performed are prescribed duties of the office, the individuals should have been considered employees of the County Clerk's office.

According to IRS Publication 15A, Circular E, the County Clerk must distinguish an individual as either an employee or independent contractor. As an employee, all compensation is considered wages and all earnings are subject to applicable withholdings.

We recommend that the County Clerk cease the practice of paying individuals as independent contractors for performing prescribed duties of the County Clerk's office.

Former County Clerk's Response: No response.

INTERNAL CONTROL – SIGNIFICANT DEFICIENCY:

The Former County Clerk's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements

The former County Clerk's office lacks adequate segregation of duties over receipts and disbursements. All employees of the Clerk's office can collect receipts. Deputies assigned by the County Clerk prepare the daily bank deposit and daily checkout sheet and then post items to the receipts ledger. The County Clerk prepares the quarterly financial report and bank reconciliations, which are agreed to the receipts and disbursements ledgers. The County Clerk or an assigned deputy prepares checks for all disbursements including payroll and posts to the disbursements ledger. There are two employees other than the Clerk who can sign checks. The Clerk does not require dual signatures on checks. Good internal controls dictate that the same employee should not handle, record, and reconcile receipts and disbursements. The County Clerk should segregate these duties or implement the following procedures to offset this control deficiency:

- The Clerk should periodically compare the daily bank deposit to the daily checkout sheet and then compare the daily checkout sheet to the receipts ledger when prepared by another employee. Any differences noted should be reconciled. The Clerk should document this by initialing the bank deposit, daily checkout sheet, and receipts ledger.
- Someone independent of preparing the quarterly financial report and monthly bank reconciliation should compare amounts reported to the receipts and disbursements ledger.
- Dual signatures should be required on all checks, with the Clerk being one of the required check signers.

Former County Clerk's Response: No response.

